

Calendar No. 451

107TH CONGRESS
2^D SESSION

S. 2134

To allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

IN THE SENATE OF THE UNITED STATES

APRIL 16, 2002

Mr. HARKIN (for himself, Mr. ALLEN, Mr. SMITH of New Hampshire, Mr. SCHUMER, Mr. NICKLES, Mrs. CLINTON, Mr. WARNER, Ms. MIKULSKI, Mr. BURNS, Mr. CRAIG, Mrs. FEINSTEIN, Ms. COLLINS, Mr. CLELAND, Mr. BAUCUS, Mr. MILLER, Mr. BAYH, Mr. HOLLINGS, Mr. JOHNSON, Mr. TORRICELLI, Mrs. HUTCHISON, and Mr. SANTORUM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JUNE 27, 2002

Reported by Mr. LEAHY, with an amendment

A BILL

To allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Terrorism Victim’s Ac-
5 cess to Compensation Act of 2002”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that:

3 (1) The war against international terrorism
4 must be fought and won on multiple fronts.

5 (2) The state sponsors of international ter-
6 rorism (including their agencies and instrumental-
7 ities) are ultimately responsible for the damages,
8 pain, and suffering inflicted upon Americans who
9 are victimized by terrorist acts. It is the state spon-
10 sors, not the American taxpayer, who must be com-
11 pelled to pay those costs.

12 (3) The Secretary of the Treasury lawfully con-
13 trols billions of dollars in blocked assets of several
14 governments which the President and the Depart-
15 ment of State have determined to be state sponsors
16 of international terrorism and responsible for mul-
17 tiple terrorist attacks on United States citizens
18 abroad.

19 (4) There have been multiple Federal lawsuits
20 brought since 1996 by American victims of state
21 sponsored terrorism abroad and final judgments and
22 financial awards in some of those cases have been
23 paid appropriately by using some of the blocked as-
24 sets of state sponsors of terrorism. Additional cases
25 are still pending.

1 (5) Paying victims of state sponsored terrorism
2 from the blocked assets of state sponsors of acts of
3 terrorism (including their agencies and instrumental-
4 ities) will punish those entities, deter future acts of
5 terrorism, and provide a powerful incentive for any
6 foreign government to stop sponsoring terrorist at-
7 tacks on Americans.

8 (6) There must be a level playing field for all
9 American victims of state sponsored terrorism who
10 are pursuing redress in the Federal courts and com-
11 pensation from the blocked assets of state sponsors
12 of terrorism (including their agencies and instru-
13 mentalities).

14 **SEC. 3. SENSE OF THE SENATE.**

15 Considering the policy set forth in this Act, the
16 Antiterrorism and Effective Death Penalty Act of 1996,
17 and in the Victims of Trafficking and Violence Protection
18 Act of 2000, it is the sense of Congress that it should
19 be the policy of the United States—

20 (1) to use the blocked assets of state sponsors
21 of acts of terrorism (including their agencies and in-
22 strumentalities) that are under the control of the
23 Secretary of the Treasury to pay court-ordered judg-
24 ments and awards made to United States nationals
25 harmed by such acts; and

1 (2) to provide equal access to all United States
 2 victims of state sponsored terrorism who have se-
 3 cured judgments and awards in Federal courts
 4 against state sponsors of terrorism (including their
 5 agencies and instrumentalities) and that those judg-
 6 ments and awards be paid by state sponsors of ter-
 7 rorism (including their agencies and instrumentality-
 8 ties) from any of their blocked assets controlled by
 9 the Secretary of the Treasury.

10 **SEC. 4. SATISFACTION OF JUDGMENTS FROM BLOCKED AS-**
 11 **SETS OF TERRORISTS, TERRORIST ORGANI-**
 12 **ZATIONS, AND STATE SPONSORS OF TER-**
 13 **RORISM.**

14 (a) IN GENERAL.—Except as provided in subsection
 15 (b), in every case in which a person has obtained a judg-
 16 ment against a terrorist party on a claim for compensatory
 17 damages for an act of terrorism, or a claim for compen-
 18 satory damages brought pursuant to section 1605(a)(7)
 19 of title 28, United States Code, the blocked assets of any
 20 terrorist party, or any agency or instrumentality of a ter-
 21 rorist party, shall be available for satisfaction of the judg-
 22 ment.

23 (b) PRESIDENTIAL WAIVER.—

24 (1) IN GENERAL.—Subject to paragraph (2),
 25 upon determining on an asset-by-asset basis that a

1 waiver is necessary in the national security interest,
2 the President may waive the requirements of sub-
3 section (a) in connection with (and prior to the en-
4 forcement of) any judicial order directing attach-
5 ment or satisfaction in aid of execution of judgment,
6 or execution of judgment, against any property sub-
7 ject to the Vienna Convention on Diplomatic Rela-
8 tions or the Vienna Convention on Consular Rela-
9 tions.

10 (2) EXCEPTION.—A waiver under this sub-
11 section shall not apply to—

12 (A) property subject to the Vienna Conven-
13 tion on Diplomatic Relations or the Vienna
14 Convention on Consular Relations that has been
15 used for any nondiplomatic purpose (including
16 use as rental property); and the proceeds of
17 such use; or

18 (B) any asset subject to the Vienna Con-
19 vention on Diplomatic Relations or the Vienna
20 Convention on Consular Relations that is sold
21 or otherwise transferred for value to a third
22 party; and the proceeds of such sale or transfer.

23 (c) DEFINITIONS.—In this Act:

1 (1) ~~BLOCKED ASSETS.~~—The term “blocked as-
 2 sets” means assets seized or blocked by the United
 3 States in accordance with law.

4 (2) ~~PROPERTY AND ASSETS SUBJECT TO VI-~~
 5 ~~ENNA CONVENTIONS.~~—The terms “property subject
 6 to the Vienna Convention on Diplomatic Relations or
 7 the Vienna Convention on Consular Relations” and
 8 “asset subject to the Vienna Convention on Diplo-
 9 matic Relations or the Vienna Convention on Con-
 10 sular Relations” mean any property or asset, respec-
 11 tively, the attachment in aid of execution or execu-
 12 tion of which may, for the limited purpose of satis-
 13 fying a judgment under subsection (a), breach an
 14 obligation of the United States under the Vienna
 15 Convention on Diplomatic Relations or the Vienna
 16 Convention on Consular Relations, as the case may
 17 be.

18 (3) ~~TERRORIST PARTY.~~—The term “terrorist
 19 party” means a terrorist, a terrorist organization, or
 20 a foreign state designated as a state sponsor of ter-
 21 rorism under section 6(j) of the Export Administra-
 22 tion Act of 1979 (50 U.S.C. App. 2405(j)) or section
 23 620A of the Foreign Assistance Act of 1961 (22
 24 U.S.C. 2371) (including any agency or instrumen-
 25 tality of that state).

1 **SEC. 4. SATISFACTION OF JUDGMENTS FROM FROZEN AS-**
2 **SETS OF TERRORISTS, TERRORIST ORGANIZA-**
3 **TIONS, AND STATE SPONSORS OF TER-**
4 **RORISM.**

5 (a) *IN GENERAL.*—Notwithstanding any other provi-
6 sion of law, and except as provided in subsection (b), in
7 every case in which a person has obtained a judgment
8 against a terrorist party on a claim based upon an act
9 of terrorism or for which a terrorist party is not immune
10 under section 1605(a)(7) of title 28, United States Code,
11 the blocked assets of that terrorist party (including the
12 blocked assets of any agency or instrumentality of that ter-
13 rorist party) shall be subject to execution or attachment in
14 aid of execution in order to satisfy such judgment to the
15 extent of any compensatory damages for which such ter-
16 rorist party has been adjudged liable.

17 (b) *PRESIDENTIAL WAIVER.*—

18 (1) *IN GENERAL.*—Subject to paragraph (2),
19 upon determining on an asset-by-asset basis that a
20 waiver is necessary in the national security interest,
21 the President may waive the requirements of sub-
22 section (a) in connection with (and prior to the en-
23 forcement of) any judicial order directing attachment
24 in aid of execution or execution against any property
25 subject to the Vienna Convention on Diplomatic Rela-

1 *tions or the Vienna Convention on Consular Rela-*
 2 *tions.*

3 (2) *EXCEPTION.—A waiver under this subsection*
 4 *shall not apply to—*

5 (A) *property subject to the Vienna Conven-*
 6 *tion on Diplomatic Relations or the Vienna Con-*
 7 *vention on Consular Relations that has been used*
 8 *by the United States for any nondiplomatic pur-*
 9 *pose (including use as rental property), or the*
 10 *proceeds of such use; or*

11 (B) *the proceeds of any sale or transfer for*
 12 *value to a third party of any asset subject to the*
 13 *Vienna Convention on Diplomatic Relations or*
 14 *the Vienna Convention on Consular Relations.*

15 (c) *SPECIAL RULE FOR CASES AGAINST IRAN.—Sec-*
 16 *tion 2002 of the Victims of Trafficking and Violence Protec-*
 17 *tion Act of 2000 (Public Law 106–386; 114 Stat. 1542) is*
 18 *amended—*

19 (1) *in subsection (a)(2)(A)(ii), by inserting after*
 20 *“July 27, 2000” the following: “or before October 28,*
 21 *2000,”;*

22 (2) *in subsection (b)(2)(B), by inserting after*
 23 *“the date of enactment of this Act” the following:*
 24 *“(less amounts therein as to which the United States*
 25 *has an interest in subrogation pursuant to subsection*

1 (c) arising prior to the date of entry of the judgment
 2 or judgments to be satisfied in whole or in part here-
 3 under).”;

4 (3) by redesignating subsections (d), (e), and (f)
 5 as subsections (e), (f), and (g), respectively; and

6 (4) by inserting after subsection (c) the following
 7 new subsection (d):

8 “(d) *DISTRIBUTION OF FOREIGN MILITARY SALES*
 9 *FUNDS INADEQUATE TO SATISFY FULL AMOUNT OF COM-*
 10 *PENSATORY AWARDS AGAINST IRAN.—*

11 “(1) *AWARD DISTRIBUTION.—*

12 “(A) *IN GENERAL.—In the event that the*
 13 *Secretary determines that the amounts available*
 14 *to be paid under subsection (b)(2) are inadequate*
 15 *to pay the entire amount of compensatory dam-*
 16 *ages awarded in judgments issued as of the date*
 17 *of the enactment of this subsection in cases iden-*
 18 *tified in subsection (a)(2)(A), the Secretary shall,*
 19 *not later than 60 days after such date, make*
 20 *payment from the account specified in subsection*
 21 *(b)(2) to each party to which such judgment has*
 22 *been issued a share of the amounts in that ac-*
 23 *count which are not subject to subrogation to the*
 24 *United States under this Act.*

1 “(B) *CALCULATION OF AMOUNT.*—*The*
 2 *amount so paid to each such person shall be cal-*
 3 *culated by the proportion that the amount of*
 4 *compensatory damages awarded in a judgment*
 5 *issued to that particular person bears to the total*
 6 *amount of all compensatory damages awarded to*
 7 *all persons to whom judgments have been issued*
 8 *in cases identified in subsection (a)(2)(A) as of*
 9 *the date referred to in subparagraph (A).*

10 “(2) *ENFORCEMENT OF JUDGMENT.*—*Nothing*
 11 *herein shall bar, or require delay in, enforcement of*
 12 *any judgment to which this subsection applies under*
 13 *any procedure or against assets otherwise available*
 14 *under this section or under any other provision of*
 15 *law.*

16 “(3) *PARTIAL JUDGMENT.*—*Any person receiving*
 17 *less than the full amount of compensatory damages*
 18 *awarded to that party in judgments to which this*
 19 *subsection applies shall not be required to make the*
 20 *election set forth in subsection (a)(2)(C) in order to*
 21 *qualify for payment hereunder.”.*

22 “(d) *DEFINITIONS.*—*In this section:*

23 “(1) *TERRORIST PARTY.*—*The term “terrorist*
 24 *party” means a terrorist, a terrorist organization, or*
 25 *a foreign state designated as a state sponsor of ter-*

1 *rorism under section 6(j) of the Export Administra-*
2 *tion Act of 1979 (50 U.S.C. App. 2405(j)) or section*
3 *620A of the Foreign Assistance Act of 1961 (22*
4 *U.S.C. 2371).*

5 (2) *BLOCKED ASSET.*—*The term “blocked asset”*
6 *means any asset seized or frozen by the United States*
7 *in accordance with law, or otherwise held by the*
8 *United States without claim of ownership by the*
9 *United States.*

10 (3) *PROPERTY OR ASSET SUBJECT TO THE VI-*
11 *ENNA CONVENTION ON DIPLOMATIC RELATIONS OR*
12 *THE VIENNA CONVENTION ON CONSULAR RELA-*
13 *TIONS.*—*The term “property subject to the Vienna*
14 *Convention on Diplomatic Relations or the Vienna*
15 *Convention on Consular Relations” and the term*
16 *“asset subject to the Vienna Convention on Diplo-*
17 *matic Relations or the Vienna Convention on Con-*
18 *sular Relations” mean any property or asset, respec-*
19 *tively, the attachment in aid of execution or execution*
20 *of which would result in a violation of an obligation*
21 *of the United States under the Vienna Convention on*
22 *Diplomatic Relations or the Vienna Convention on*
23 *Consular Relations, as the case may be.*

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